



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 13, 2010

Ms. Susan Camp-Lee
Sheets & Crossfield, P.C.
309 East Main Street
Round Rock, Texas 78664-5246

OR2010-13858

Dear Ms. Camp-Lee:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 393321.

The Round Rock Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident report. You state you have released some information. You state you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code in accordance with Open Records Decision No. 684 (2009).¹ You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be

¹This office recently issued Open Records Decision No. 684, a previous determination to all governmental bodies that authorizes withholding ten categories of information, including Texas driver's license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

established. *See id.* at 681-82. The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *See id.* at 683. This office has found that personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). In addition, a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U. S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, active warrant information or other information relating to an individual's current involvement in the criminal justice system does not constitute criminal history information for the purposes of section 552.101. *See* Gov't Code § 411.081(b) (police department allowed to disclose information pertaining to person's current involvement in the criminal justice system). Upon review, we agree that a portion of the information you have marked, is highly intimate or embarrassing and not of legitimate public concern. Accordingly, with the exception of the information we marked for release, the department must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, no portion of the remaining information is highly intimate or embarrassing and of no legitimate interest to the public. Therefore, no portion of the remaining information may be withheld under section 552.101 under common-law privacy.

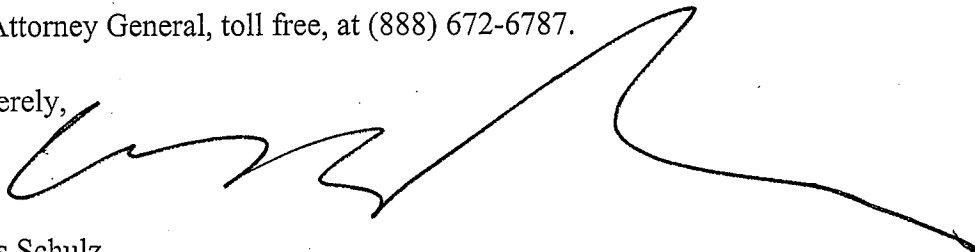
Section 552.130 of the Government Code excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a)(1), (2). The department must generally withhold the information you have marked, and the additional information we have marked, pursuant to section 552.130. However, we note some of the information at issue belongs to the requestor's spouse. As such, the requestor has a right of access to her spouse's information pursuant to section 552.023, if she is acting as his authorized representative. *See id.* § 552.023 (person or person's authorized representative has a special right of access to information that relates to a person that are protected from public disclosure by laws intended to protect that person's privacy interest). Thus, if the requestor is seeking the information as the authorized representative of her spouse, then she has a right of access to his information, and the department may not withhold this information under section 552.130. If the requestor is not seeking the information as her spouse's authorized representative, then the department must withhold his information we marked under section 552.130. However, the department must withhold the remaining Texas motor vehicle information not belonging to the requestor's spouse, which you have redacted, under section 552.130 of the Government Code.

In summary, with the exception of the information we marked for release, the department must withhold the information you marked under section 552.101 in conjunction with common-law privacy. The department must also withhold the information marked under section 552.130. However, the department may not withhold the information pertaining to the requestor's spouse if the requestor is acting as his spouse's authorized representative. The remaining information must be released.²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Schulz', with a long horizontal line extending to the right.

Chris Schulz
Assistant Attorney General
Open Records Division

CS/em

Ref: ID# 393321

Enc. . Submitted documents

c: Requestor
(w/o enclosures)

²We note the information being released contains confidential information to which the requestor has a right of access. See Gov't Code § 552.023 (person has special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect person's privacy interests). Thus, if the department receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.